

EXHIBIT B
Budget Detail and Payment Provisions

1. **INVOICING PROCEDURES**

A. For services satisfactorily rendered, and upon receipt and approval of invoices, the Energy Commission agrees to compensate Contractor for actual allowable expenditures incurred in accordance with Exhibit B, Budget Attachment. The rates in Exhibit B, Budget Attachment, are rate caps, or the maximum amount allowed to be billed. Contractor can only bill for actual expenses incurred for hours worked at the Contractor's actual direct labor, fringe, and indirect rates, not to exceed the rates specified in Exhibit B, Budget Attachment.

B. Invoices shall be submitted in duplicate not more frequently than monthly. The following certification shall be included on each invoice and signed by an authorized official of the contractor:

I certify that this invoice is correct and proper for payment, and reimbursement for these costs has not and will not be received from any other sources, including but not limited to a Government Entity contract, subcontract or other procurement method.

C. The Energy Commission will accept computer generated or electronically transmitted invoices provided Contractor sends a hard copy the same day to the Energy Commission, the address is noted below and in the Agreement Contact List.

California Energy Commission
Accounting Office, MS-2
1516 Ninth Street
Sacramento, California 95814

D. A request for payment shall consist of, but is not limited to, the following. Contractor may use the sample invoice format from the **Energy Commission's Web Site** www.energy.ca.gov/contracts/index.html.

- 1) Agreement number, date prepared, and billing period.
- 2) Contractor's actual hourly labor rates by individual.
- 3) Operating expenses, including equipment, travel, miscellaneous.
- 4) Subcontractor invoices, identify if a subcontractor is a California Certified Small Business or a Certified Disabled Veteran Business Enterprise.
- 5) Fees (fringe, direct and indirect overheads, general and administrative, profit, etc.)
- 6) Match fund expenditures, if applicable.
- 7) By task: cumulative amounts, budgeted, billed to date, current billing, and balance of funds.
- 8) Work Authorization number, if applicable.

E. As detailed in Exhibit A, Scope of Work:

- 1) A report that documents the progress of the work during the billing period, and
- 2) Any other deliverables due during the billing period.

2. **BUDGET CONTINGENCY CLAUSE**

It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the work identified in Exhibit A, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other consideration under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.

If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either: cancel this Agreement with no liability occurring to the State, or offer an Agreement amendment to Contractor to reflect the reduced amount.

3. **TRAVEL AND PER DIEM RATES**

Contractor shall be reimbursed for travel and per diem expenses using the same rates provided to non-represented state employees. Contractor must pay for travel in excess of these rates. Contractor may obtain current rates from the Energy Commission's Web Site at www.energy.ca.gov/contracts/index.html.

- A. Travel identified in Exhibit B, Budget Attachment is approved and does not require further authorization.
- B. Travel that is not included in Exhibit B, Budget Attachment shall require prior written authorization from the Contract Manager. The Energy Commission will reimburse travel expenses from Contractor's office location.
- C. Contractor must retain documentation of travel expenses in its financial records listed by trip including dates and times of departure and return. Receipts for travel expenses claimed must be retained by Contractor (receipts are not required for travel meals or incidentals within current allowable rates).

4. **RETENTION**

The Energy Commission shall retain from each invoice ten per cent (10%) of that invoice, excluding equipment invoices. The retained amount shall be held and released only upon approval that work has been satisfactorily completed and the Final Report (if required) has been received and approved. Contractor must submit a separate invoice for the retained amount.

Retention may be released upon completion of tasks that are considered separate and distinct, i.e., the task is a stand-alone piece of work and could be done without the other tasks. Exhibit B, Budget Attachment, identifies the tasks for which retention may be released prior to the end of the Agreement. Tasks for administration or management of the Agreement and/or subcontractors are not considered separate and distinct tasks.

5. **PAYMENT TERMS**

Check all that apply:

- ☐ Monthly
- ☐ Quarterly
- ☐ One-Time Payment
- ☐ Itemized
- ☐ Flat Rate
- ☐ In Arrears
- ☐ Advance Payment to Public Prime Contractor Not to Exceed \$_____ or _____ % of the Agreement Amount
- ☐ Advance Payment to Private Prime Contractor for Public Subcontractor, (PRC section 25620.3(d)) Not to Exceed \$_____ or _____ % of the Subcontract Amount
- ☐ Reimbursement/Revenue
- ☐ Other (Explain)

6. **CONDITIONS FOR PAYMENT**

- A. Payment shall only be made in accordance with Exhibit B, Budget Attachment.
- B. Each request for payment is subject to the Contract Manager's approval.
- C. Payments shall be made to Contractor for undisputed invoices. An undisputed invoice is an invoice submitted by the Contractor for services rendered and for which additional evidence is not required to determine its validity. The invoice will be disputed if all deliverables due for the billing period have not been received and approved, if the invoice is inaccurate, or if it does not comply with the terms of this Agreement. If the invoice is disputed, Contractor will be notified via a Dispute Notification Form within 15 working days of receipt of the invoice.
- D. Payment will be made in accordance with, and within the time specified, in Government Code Chapter 4.5, commencing with Section 927.
- E. Final invoice must be received by the Energy Commission no later than 30 calendar days after the Agreement termination date.
- F. Reimbursement for costs identified in contractor invoices has not and will not be received from any other sources, including but not limited to a Government Entity contract or subcontract or other procurement method.

7. **RECORDKEEPING, COST ACCOUNTING AND AUDITING**

- A. Cost Accounting

Contractor agrees to keep separate, complete, and correct accounting of the costs involved in developing, installing, constructing, and testing of Project-Related Products and Rights funded under the Energy Commission-funded portion of this Agreement as well as keep separate, complete, and correct account of the Economic Benefits from Project-Related Products and Rights.

B. Accounting Procedures

Contractor's costs shall be determined on the basis of Contractor's accounting system procedures and practices employed as of the effective date of this Agreement. Contractor's cost accounting practices used in accumulating and reporting costs during the performance of this Agreement shall be consistent with the practices used in estimating costs for any proposal to which this Agreement relates; provided that such practices are consistent with the other terms of this Agreement and provided, further, that such costs may be accumulated and reported in greater detail during performance of this Agreement. Contractor's accounting system shall distinguish between direct costs and indirect costs. All costs incurred for the same purpose, in like circumstances, are either direct costs only or indirect costs only with respect to costs incurred under this Agreement.

C. Allowability of Costs

Except as provided for in this Agreement, Contractor shall use the applicable Federal Office of Management and Budget (OMB) Circulars A-87, A-21, A-122, or Federal Acquisition Regulations (FAR) Part 31 in determining allowable and unallowable costs. In the event of a conflict, this Agreement takes precedence over the OMB Circulars and/or FAR. Factors to be considered in determining whether an individual item of cost is allowable include: (i) reasonableness of the item; (ii) allowability of the item to the work; (iii) the appropriate use of applicable Federal OMB Circulars or FAR; and, (iv) the terms and conditions of this Agreement. Applicable OMB circulars and FAR may be found at www.whitehouse.gov/omb and www.arnet.gov/far/.

1) Allowable Costs

Allowable costs may include all costs, direct and indirect, incurred in the performance of work identified in Contractor's proposal, if applicable, and capped as specified in Exhibit B, Budget Attachment. Costs must be incurred within the term of the Agreement. The Energy Commission will pay for State or local sales or use taxes on the services rendered or equipment, parts or software supplied to the Energy Commission pursuant to this Agreement.

2) Unallowable Costs

Some examples of unallowable costs include: contingency costs, imputed costs, fines and penalties, losses on agreements, excess profit taxes, and increased rates and fees for this Agreement.

The State of California is exempt from Federal excise taxes, and no payment will be made for any taxes levied on employee's wages.

D. Audit Rights

Contractor shall maintain books, records, documents, and other evidence, based on the procedures set forth above, sufficient to reflect properly all costs claimed to have been incurred in performing this Agreement. The Energy Commission, an agency of the State or, at the Energy Commission's option, a public accounting firm designated by the Energy Commission, may audit such accounting records at all reasonable times with prior notice by the Energy Commission. The Energy Commission shall bear the expense of such audits. It

is the intent of the parties that such audits shall ordinarily be performed not more frequently than once every twelve (12) months during the performance of the work and once at any time within three (3) years following payment by the Energy Commission of Contractor's final invoice. However, performance of any such interim audits by the Energy Commission does not preclude further audit.

E. Audit Cost

The cost of the audit shall be borne by the Energy Commission except when the results of the audit reveal an error detrimental to the Energy Commission that exceeds ten percent (10%) of the amount audited, or \$5000 (whichever is greater); or if a royalty audit, ten percent (10%) of the total royalties due in the period audited. In this event, Contractor agrees to reimburse the Energy Commission for reasonable costs and expenses incurred by the Energy Commission in conducting such audit.

F. Refund to the Energy Commission

If the Energy Commission determines that any invoiced and paid amounts exceed the actual allowable and incurred costs, Contractor shall repay such amounts to the Energy Commission within thirty (30) days of request or as otherwise agreed to in writing by the Energy Commission and Contractor. If the Energy Commission does not receive such repayments, the Energy Commission shall be entitled to withhold further payments to Contractor.

8. **BUDGET DETAIL**

Budget Detail is contained in the Attachment to this Exhibit.